

MONTANA LEGISLATIVE HISTORY

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Chapter 425 19 89

Bill H 313 S _____ Original bill & history / c

H. Committee on Judiciary

Hearing Date(s) Feb 06 ✓ c

Feb 08 ✓ c

_____ c

_____ c

Date Out Feb 10 ✓ c

S. Committee on Judiciary

Hearing Date(s) Mar 15 ✓ c

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Mar 15 ✓ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HOUSE BILL NO. 313

INTRODUCED BY GRADY, HARPER, COHEN, GOOD, SPAETH,
CRIPPEN, HALLIGAN, O'KEEFE, MAZUREK, BOYLAN, ADDY,
HANNAH, B. BROWN, RASMUSSEN, HARP

IN THE HOUSE

JANUARY 19, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 20, 1989	FIRST READING.
FEBRUARY 11, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 13, 1989	PRINTING REPORT.
FEBRUARY 14, 1989	SECOND READING, DO PASS.
FEBRUARY 15, 1989	ENGROSSING REPORT.
FEBRUARY 16, 1989	THIRD READING, PASSED. AYES, 98; NOES, 1.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 17, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 15, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1989	SECOND READING, CONCURRED IN.
MARCH 20, 1989	THIRD READING, CONCURRED IN. AYES, 48; NOES, 0.
	RETURNED TO HOUSE.

MARCH 21, 1989

IN THE HOUSE

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 313
 2 INTRODUCED BY Sen. Bob Brown
 3 Sen. HARP
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THE SKIER
 5 RESPONSIBILITY LAW; TO PROVIDE THAT THOUGH LIABLE FOR
 6 NEGLIGENCE, A SKI AREA OPERATOR IS NOT LIABLE FOR AN INJURY
 7 CAUSED BY A RISK INHERENT IN THE SPORT; AMENDING SECTIONS
 8 23-2-731 THROUGH 23-2-733 AND 23-2-736, MCA; REPEALING
 9 SECTION 23-2-737, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
 10 DATE AND AN APPLICABILITY DATE."
 11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 **Section 1.** Section 23-2-731, MCA, is amended to read:
 14 "23-2-731. Purpose. ~~It is recognized that there are~~
 15 ~~inherent risks in the sport of skiing that are essentially~~
 16 ~~impossible to eliminate by the ski area operator but that~~
 17 ~~should be known by the skier. It is the purpose of 23-2-731~~
 18 ~~through 23-2-737 to define those areas of responsibility and~~
 19 ~~affirmative acts for which the ski area operator is liable~~
 20 ~~for loss, damage, or injury and those risks for which the~~
 21 ~~skier expressly assumes or shall be considered to have~~
 22 ~~voluntarily assumed the risk of loss or damage and for which~~
 23 ~~there can be no recovery. The legislature finds that skiing~~
 24 is a major recreational sport and a major industry in the
 25 state and recognizes that among the attractions of the sport

1 are risks, inherent and otherwise. The state has a
 2 legitimate interest in maintaining the economic viability of
 3 the ski industry by discouraging frivolous lawsuits,
 4 defining inherent risks, and establishing the duties of
 5 skiers and ski area operators."

6 **Section 2.** Section 23-2-732, MCA, is amended to read:
 7 "23-2-732. Definitions. As used in 23-2-731 through
 8 23-2-737 23-2-736, the following definitions apply:

9 (1) "Ski area operator" or "operator" means a person,
 10 firm, or corporation, and its agents and employees, having
 11 operational and administrative responsibility for ski trails
 12 and improvements.

13 (2) "Skier" means any person admitted to a ski area
 14 under the control of a ski area operator for the purpose of
 15 engaging in the sport of skiing by or using the ski slopes,
 16 trails, and areas and other improvements within the ski
 17 area. The term does not include a person using an aerial
 18 passenger tramway.

19 (3) "Ski slopes, trails, and areas" means those
 20 areas designated by the ski area operator to be used by
 21 skiers for the purpose of participating in the sport of
 22 skiing."

23 **Section 3.** Section 23-2-733, MCA, is amended to read:
 24 "23-2-733. Duties of operator regarding ski areas. A
 25 ski area operator shall:

INTRODUCED BILL

HB313

(1) mark all trail maintenance grooming vehicles and furnish by furnishing the vehicles with flashing or rotating lights that must be in operation whenever the vehicles are working or are in movement in the ski area;

(2) mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes, trails, and areas;

(3) maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes and the relative degree of difficulty of the ski trails at that area;

(4) post a notice of the requirement for the requiring the use of ski-retention devices;

(5) designate at the start of each day, by trail board or otherwise, which trails or slopes are open or closed and amend those designations as openings and closures occur during the day;

(6) post in a conspicuous location the skier responsibility code that is published by the national ski areas association and that is current on [the effective date of this act]; and

(7) post a copy of 23-2-736 in a conspicuous location."

Section 4. Section 23-2-736, MCA, is amended to read:

"23-2-736. Skier's assumption---of---responsibility conduct -- duties inherent risks. (1) A skier assumes the risk--and--all--legal--responsibility--for--injury--to--himself--or--loss--of--property--that--results--from--participating--in--the sport---of--skiing--by--virtue--of--his--participation---The assumption-of-risk-and-responsibility--includes--but--is--not limited---to---injury--or--loss--caused--by--the--following: variations-in-terrain,--surface--or--subsurface--snow--or--ice conditions,--bare-spots,--rocks,--trees,--other-forms-of-forest growth-or-debris,--lift-towers-and-components--thereof,--pole lines,--and--plainly-marked-or-visible-snowmaking-equipment;

(2) A skier is responsible for knowing the range of his--own--ability--to--ski--any--slope,--trail,--or--area--and--for skiing within the limits of his ability, skiing only on designated slopes and trails, maintaining control of speed and course at all times while skiing, heeding all posted warnings, and refraining from acting in a manner that may cause or contribute to the injury of anyone. The responsibility for collisions with a person or object while skiing is the responsibility of the person or persons and not the responsibility of the ski area operator.

(1) A skier has the duty to conduct himself at all times so that he avoids injury to himself and others and to be aware of the inherent risks of the sport.

(2) A skier:

1 (a) must know the range of his ability and safely
 2 conduct himself within the limits of that ability and his
 3 equipment so as to negotiate any section of terrain or ski
 4 trail safely and without injury or damage. A skier must know
 5 that his ability may vary because of trail changes caused by
 6 weather, grooming changes, or skier use.

7 (b) shall maintain control of speed and course so as
 8 to prevent injury to himself or others;

9 (c) must abide by the requirements of the skier
 10 responsibility code that is published by the national ski
 11 areas association and that is current on {the effective date
 12 of this act}; and

13 (d) shall obey all posted or other warnings and
 14 instructions of the ski area operator.

15 (3) A person who is skiing may not:

16 (a) place an object in the ski area or on the uphill
 17 track of a passenger tramway that may cause a passenger or
 18 skier to fall;

19 (b) cross the track of a passenger tramway except at a
 20 designated and approved area, point; or

21 (c) if involved in a skiing accident, depart from the
 22 scene of the accident without:

23 (i) leaving personal identification; or

24 (ii) before notifying the proper authorities or and
 25 obtaining assistance when the skier knows that a person

1 involved in the accident is in need of medical or other
 2 assistance.

3 (4) A skier must accept all legal responsibility for
 4 injury of any kind that he suffers that results from risks
 5 inherent in the sport of skiing. Risks inherent in the sport
 6 of skiing include but are not limited to:

7 (a) variations in skiing terrain, including surface
 8 and subsurface snow or ice conditions naturally occurring or,
 9 resulting from weather changes, skier use, or grooming or
 10 snowmaking operations;

11 (b) bare spots and thin snow cover caused by limited
 12 snowfall, melting, wind erosion, skier action, grooming, or
 13 unconsolidated base;

14 (c) forest growth on designated trails;

15 (d) forest growth and forest debris {including rocks,
 16 stumps, snags, woodpiles, trees, underbrush, and branches},
 17 major terrain undulations, tree wells, or unstabilized snow,
 18 in areas within the ski area boundary but not designated as
 19 trails or typically maintained for skiing activity;

20 (e) clearly visible or plainly marked improvements,
 21 including but not limited to lift towers and terminals,
 22 buildings, decks, walkways, fences, snowguns, hydrants and
 23 hoses, roadways, and signs;

24 (f) clearly visible or plainly marked mobile equipment
 25 and attachments, whether moving or stationary, used by the

1 ski area operator;
2 (g) avalanches, except on open, designated ski trails;
3 and
4 (h) a collision with another skier who is not an
5 employee of the ski area operator acting in the course of
6 and within the scope of his employment duties."
7 NEW SECTION. Section 5. Repealer.. Section 23-2-737,
8 MCA, is repealed.
9 NEW SECTION. Section 6. Effective date --
10 applicability. (1) [This act] is effective on passage and
11 approval.
12 (2) [This act] applies to courses of action arising
13 after [the effective date of this act].

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 6, 1989, at
9:09 a.m.

ROLL CALL

Members Present: All members were present

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: A letter was drafted by John MacMaster
to Chief Justice Turnage on behalf of Chairman Brown
(EXHIBIT 1).

HEARING ON HOUSE BILL 313

Presentation and Opening Statement by Sponsor:

Rep. Grady, House District 47, Sponsor of HB 313 requested
by the Montana Ski Area Association. This bill was proposed
after the Montana Supreme Court declared unconstitutional a
state law that held skiers responsible for injuries while
skiing. Rep. Grady introduced Pat Melby, a Helena attorney
who took part in the drafting of the bill to explain in
detail the intent of HB 313.

Testifying Proponents and Who They Represent:

Pat Melby, Montana Ski Area Association
George Willett, Showdown Ski Area
Norm Kurtz, Big Mountain Ski Resort
Bill Grasser, Lost Trail Ski Area
Terry Abelin, Bridger Bowl Ski Area
Peter Pitcher, Discovery Ski Area
Brad Morris, Snowbowl Ski Area
Kevin Taylor, Great Divide Ski Area
Red Kamp, Maverick Mountain Ski Area
Michael Bell, President, Montana Ski Association
Dr. Bud Little, Self and skiers
Stanley E. King, National Ski Patrol Association

Proponent Testimony:

Pat Melby, a Helena attorney, representing the Montana Ski Areas Assoc. stated that the attempt of HB 313 is to remove the portions in which the Supreme Court found unconstitutional from the law and to redefine those duties of the skier as well as the ski area. Mr. Melby reviewed with the committee proposed amendments (EXHIBIT 2) as well as rehearsed in full detail the contents of HB 313.

George Willett of the Showdown Ski Area where the case of Brewer v Ski-lift, Inc. occurred discussed before the committee as to the event that took place prompting the proposal of the HB 313. In Mr. Willett's words, the skier was skiing through a numerous amount of small trees, lost a ski and fell, landing on a stump. Mr. Brewer was skiing through soft powder snow that had no base, he lost a ski and he fell on a stump that had been uprooted. Additionally, the situation had been there for 25-30 years, it was not a new situation that was not unknown to the skier. Mr. Willett stated that most of the skiers that go to a ski area accept the fact that skiing is a very dangerous sport; however, as a ski area they have no control over the speed and course of the skier. The purpose of this bill is to identify the inherent risks associated with the sport and make it the skiers responsibility if he/she gets hurt because of these inherent risks. Another factor that comes into consideration is the cost. The insurance industry for skiing is a very small industry. There are only two carriers that sell insurance to ski areas in the entire United States. Mr. Willett stated that their insurance costs have gone up 250% within the past 5 years. The costs have gone up because of the losses that the country has had as a whole, not just specifically Montana. Therefore, to compensate for the increase in insurance rates, they must raise the cost of the area lift tickets. Mr. Willett asked the committee to consider the proposed legislation as an industry to help put skiing in perspective in the State and allow the skiers to pick and chose and to also allow them to accept the responsibility that most of them would like to.

Norm Kurtz stated that he has been in the ski business for 34 years and that when he began the sport of skiing, the responsibilities that he accepted at that time are largely the same as they are today. The sport of skiing involves gravity, snow, cold weather, speed, intense physical exertion, and therefore, the ensuing problems that could occur by more than one person doing the same sport at the same time. The measure that he asks the committee support clearly defines what the skiers responsibilities are.

Bill Grasser commented that as a ski area operator he sees a lot of people, both in state as well as out of state that are skiing in Montana with varying understandings of what the risks are. It is very important as risk takers and

businessmen in the State of Montana that there is a law that sets forth a clear understanding of what their responsibilities are as ski area operators as well as the responsibilities of the skier.

Terry Abelin stated that HB 313 basically covers two different areas: 1.) Negligence and 2.) Inherent risk. Negligence can be from either party, the operator or the skier. Inherent risk is something that is involved in any sport. Mr. Abelin hoped that by better defining the definitions they hope to be able to lessen the impact of the nuisance lawsuits and keep skiing a viable industry in the State of Montana.

Peter Pitcher expressed to the committee that a number of smaller ski areas in Montana, which Discovery Basin is one, they cater to budget minded skiers. In the last five years there has been three ski areas that have ceased to operate in Montana primarily due to the increase of their insurance premiums. Without the passage of HB 313, Mr. Pitcher imagined that there would be more litigation because the ski areas responsibilities would not be as clearly defined.

Kevin Taylor, speaking from the prospective of one of the smallest ski area operators in the State commented that while insurance premiums are their number two expense item, second only to the wages and salaries that are paid to their personnel, expense is not their major concern. Availability is. While the premiums are a significant expense item to the area operator they are fairly minor to the insurers. Therefore, if they are faced with numerous claims, nonrenewal is a significant concern. Mr. Taylor stated that they make tremendous efforts to assure that their lifts operate to a highest degree of safety, and they do so. They also designate and maintain a number of trails to make the experience more pleasurable to their customers. However, they do operate in a mountain environment and are providing access to a sport which historically contains a degree of risk which is central to the challenge and enjoyment of the sport. House Bill 313 simply seeks to list and define these risks that naturally accompany participation in the sport of skiing. The purpose of this bill is to publicly proclaim that they, as ski area operators cannot eradicate those risks without totally compromising the very nature of the sport. Mr. Taylor stated that they would like to communicate that warning to the public by passage of the proposed bill into law.

Brad Morris, Red Kamp, Mike Bell, Dr. Bud Little and Stanley E. King voiced their testimony before the committee in support of HB 313 in agreement with the above mentioned proponents.

Allan M. McGarvey submitted to the committee written testimony in favor of HB 313 (EXHIBIT 3).

Testifying Opponents and Who They Represent:

Michael Sherwood, Montana Trial Lawyers Association

Opponent Testimony:

Michael Sherwood stated that he does not oppose the bill on its spirit, but he does oppose certain language found in the bill. Mr. Sherwood presented to the committee a written testimony as to his reasons for opposing HB 313 (EXHIBIT 4).

Questions From Committee Members: Rep. Addy questioned Mr.

Willett as to the case of Brewer v Ski-lift. In the opinion itself, it notes that the plaintiffs contention was that the stump was beneath the snow, not visible, in a dangerous location and that it had been turned upside down with sharp roots sticking up. Mr. Willett responded that the type of forest that they have at the ski area has a very shallow root system and over a period of years this particular stump had been uprooted and been there for 30-40 years as a result of some logging operations that had taken place. It was in a forest regrowth area where the trees were anywhere from 6-12 feet tall and were sticking out of the snow anywhere from 2-8 feet. The area has been skied over for the past 20 or so years that the ski area has been operating, but usually the people don't go into that area until there is adequate snow and some consolidation of the snow to create a base. The accident occurred on the 26th of December and due to the small amount of snow there was no consistency in the woods. Rep. Addy questioned that anyone who uses the ski area is suppose to know where and where not to ski, and to determine if it has been groomed by a snow-cat and considered a safe skiable area? Mr. Willett responded yes. Rep. Addy questioned if there was any separate warning or caution that they give to people regarding the possible risks that may be inherent in the area? Mr. Willett stated that unfortunately they have so many signs that are posted that they are almost a hazard in themselves. He commented that the farther off from the groomed areas into the woods the skier gets, the greater the risk and hazard.

Rep. Addy continued by asking Mr. Willett if he could describe the nature of the plaintiffs injuries? Mr. Willett stated that Mr. Brewer fell, fractured his ribs and suffered internal injuries and bleeding. The primary concern, however, is the aggravation of an existing back injury.

Closing by Sponsor: Rep. Grady stated that speaking from a skier's point of view he often takes many chances and skies where he knows he shouldn't. Admittedly, he feels that it is not proper responsibility of the ski area operator in many cases when accidents happen.

DISPOSITION OF HOUSE BILL 264

Motion: Rep. Hannah made a DO PASS motion, seconded by Rep. Aafedt.

Discussion: No discussion on the motion.

Amendments, Discussion, and Votes: Rep. Addy made a motion to move the amendments (EXHIBIT 5), motion seconded by Rep. Wyatt.

Rep. Hannah offered a friendly amendment to insert "public" on page 2, line 11 of the proposed amendments. Motion CARRIED.

Rep. Brooke moved the addition of "incest" on page 3, line 11 of the proposed amendments, motion seconded by Rep. Stickney. Motion CARRIED.

Recommendation and Vote: Rep. Hannah moved DO PASS AS AMENDED, motion seconded by Rep. Addy. Motion CARRIED with a unanimous vote.

DISPOSITION OF HOUSE BILL 185

Motion: Rep. Addy moved HB 185 DO PASS, motion seconded Rep. Darko.

Amendments, Discussion, and Votes: Rep. Addy moved amendments on page 5, line 9, following "appropriate", strike public. Page 5, line 13, following "nearest", insert regional central office of the. Page 5, line 16, following "the", strike public; line 19, following "the", strike public; line 21, following "facility", insert within; following 12, strike "hours", insert hour period. Line 25, strike "facility within four hours", insert facility as soon reasonably practical. Amendments seconded by Rep. Darko.

Rep. Addy stated that the intent of the amendments is to make this bill workable for law enforcement, at the same time making sure the standard of care to the mentally ill people is not lowered.

A vote was taken on the above mentioned amendments and CARRIED unanimously.

Rep. Hannah suggested to amend page 5, line 10, Strike "anywhere in the state", motion seconded by Rep. Nelson. Amendment CARRIED with Rep.'s Wyatt, Stickney and Darko voting No.

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 6, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

VISITORS' REGISTER

JUDICIARY

COMMITTEE

BILL NO. HOUSE BILL 313DATE FEB. 6, 1989SPONSOR REP. GRADY

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dr Bud Little	HELENA	X	
Michael E. Bell	GREAT FALLS	X	
Stanley E. King	Great Falls	X	
Gorman J. Kuntz	WHITEFISH	X	
Bill Grossen	DARBY	X	
Bradley Morris	Missoula	X	
Vida Pitzer	Anaconda	X	
Nyla Taylor	Helena	X	
Kevin Taylor	Marysville	X	
Jimmy Keising	Helena	X	
Gary Shulds	Bridgeport Ski Area	X	
Red Zamp	Maroon Mt. Ski Area	X	
GEO WILLET	SHOWDOWN SKI AREA	X	
Pat Wilby	Mont Shi Area Area	X	
Nike Sherwood	MTLR		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Feb. 6, 1989
313-Rep. Grady

Amendments to House Bill No. 313
First Reading Copy

Requested by Rep. Grady
For the Committee on the Judiciary

Prepared by John MacMaster
February 4, 1989

1. Title, lines 5 and 6.
Strike: "PROVIDE THAT THOUGH LIABLE FOR NEGLIGENCE,"
Insert: "STATE THE DUTIES OF"
2. Title, lines 6 AND 7.
Strike: "IS NOT LIABLE FOR AN INJURY CAUSED BY A RISK"
Insert: "AND A SKIER; TO PROVIDE THAT A SKIER ACCEPTS
RESPONSIBILITY FOR RISKS"
3. Page 5, line 15.
Strike: "who is skiing"
4. Page 5, line 25.
Strike: "the skier"
Insert: "he"
5. Page 6, line 4.
Following: "injury"
Insert: "or damage"
Strike: "that he suffers"
6. Page 6, lines 15 through 19.
Strike: "forest growth" on line 15 through "skiing activity" on
line 19
Insert: "skiing in an area within the ski area ~~boundaries~~ not
designated as a ski trail"
7. Page 6, lines 20 through 23.
Strike: "," at end of line 20 through "signs" on line 23

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Dale L. McGarvey

Jon L. Heberling

Peter M. Sullivan

Allan M. McGarvey

January 31, 1989

To All Senators and Representatives
State of Montana 51st Legislature
State Capitol Building
Capitol Station
Helena, Montana 59601

Re: House Bill No. 313
An Act to Clarify the Skier Responsibility Law

Dear Legislator:

I wish to take this opportunity to applaud your efforts to clarify the Skier Responsibility Law. I also wish to pledge my support and willingness to assist in enacting a law which protects both the Montana ski industry as well as Montana skiers.

As the attorney for the appellant in Brewer v. Ski-lift, Inc. (the civil action in which the previous enactment was declared unconstitutional), I have spent a great deal of time studying the legislation you are considering including:

- a) The legislative rationale and purpose;
- b) Similar laws in sister states;
- c) Constitutional limitations upon such an enactment; and,
- d) Specific language used.

I have reviewed House Bill No. 313 as introduced and find it an excellent improvement over the old law; however, I feel very strongly that the new enactment will be subject to some of the same difficulties as the previous law and will ultimately be challenged on a constitutional basis. Indeed, the legislation could arguably be construed to deny a remedy in a case like Mr. Brewer's as he was injured by "forest growth" in a designated ski trail.

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I am sure it is not the intent of the legislation to immunize ski area operators from liability for their wrongful or negligent conduct; rather, it is to protect the ski area operators from law suits which arise out of injuries occurring despite the ski area operator's exercise of reasonable safety precautions. I believe the difficulty arises from the impossibility of cataloging all possible fact scenarios with sufficiently detailed language.

I would like to suggest the following minor changes to House Bill No. 313 which I believe would help define the statutory duties and define the scope of the legislation. First, I would propose that Section (4) be supplemented with the following language:

Section 23-2-736, MCA, is amended to read: . . .

(4) . . .

(i) Ski area operator negligence is not a risk inherent in the sport of skiing.

My second suggestion is that the ski area operator be shouldered with a minimal burden to exercise reasonable care to maintain their ski hills such that Section (3) should be modified as follows:

Section 23-2-733, MCA, is amended to read:

A ski area operator shall:

. . . (8) Exercise reasonable care to remove unnecessary obstructions or debris which constitute unreasonable hazards and to clearly mark hidden hazards which are unusually dangerous but are too difficult to remove.

I am sure you will agree that these minor modifications will impose no great burden upon the ski area operators nor will they open the door for lawsuits except where a skier has been injured by an unreasonably dangerous hazard which was left unmarked on the ski hill through the operator's failure to exercise even reasonable care.

If you have any questions concerning the need for these modifications or the reasons I feel these modifications would

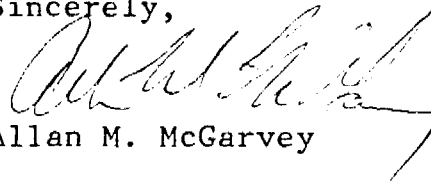
EX. #3
1-6-89

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make the legislation much stronger and less subject to constitutional challenge, please call me at our toll free number.

I wish you the best of luck in your efforts to tackle the difficult issues before the 51st Legislature.

Sincerely,



Allan M. McGarvey

AMM:jem

Testimony of Michael Sherwood, MTLA

Opposing House Bill 313

February 5, 1989

Montana has established by law a comparative negligence scheme in determining whether injured victims should be compensated for the negligence of others. Unless someone is more negligent than the victim of an accident, the victim cannot recover. If the victim is allowed to recover the amount of his negligence is deducted from the damages owed.

This bill attempts to create an exception to that general law for ski resorts. The supreme court of Montana ruled in *Brewer v. Skilift, Inc.* that the former law passed by the legislature at the prompting of the ski resort industry was unconstitutional.

The court recognized that a state may make different rules for skiers (as opposed to other recreationists) so long as the distinction "rationally furthers a legitimate state purpose." The court found that completely insulating ski resorts from liability did not serve the purpose set forth in the statute: e.g. "to define those areas of responsibility and affirmative acts for which the ski operator is liable for loss, damage, or injury and those risks for which the skier expressly assumes or shall be considered to have voluntarily assumed the risk of loss or damage and for there can be no recovery."

This bill sets forth a different, and perhaps, more candid legislative objective: "maintaining the economic viability of the ski industry by discouraging frivolous lawsuits, defining inherent risks,

and establishing the duties of skiers and ski area operators." In all likelihood the supreme court will find this to be a legitimate legislative objective. The question, then, is whether this legislation "rationally furthers those objectives."

In the Brewer case the court held that requiring a skier to assume all risk and legal responsibility for injury to himself and for collisions and barring him from recovery from a ski resort completely when his injury was caused in part by a risk inherent in the sport did not rationally further the stated objectives in the act.

Now, this bill is before you in order to meet the requirements that the court found lacking in prior legislation. It attempts to do so by defining the various duties of the parties more explicitly and, again, forbidding recovery when a inherent risk in the sport in any way causes the damage. If this legislation is to pass consitutional muster it must be amended as proposed by the attached amendments to allow comparative negligence to still operate and to not limit duties or conditions to those listed in the bill.

Proposed amendments to House Bill 313

Michael Sherwood, MTLA'

Page 2, Line 3:

Strike: "discouraging frivolous lawsuits,"

Insert after "by" : discouraging claims based upon damages resulting
from risks inherent in the sport by "

Page 2, Line 25:

Strike: "shall:"

Insert after "operator": "owes a duty of care to a skier which
includes, but is not limited to, the duty to:"

Page 6,, Line 3:

Strike: "all"

Page 6, Line 4:

Insert after "suffers": "to the extent"

Insert after "that": "the injury or damage"

Page 7, Line 7:

Insert a new section (i) which reads: "(i) any other inherent risk in the sport of skiing that is essentially impossible to eliminate by the ski operator."

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion to TABLE and CARRIED with Rep.'s Daily, Mercer, Aafedt and Gould voting No.

DISPOSITION OF HOUSE BILL 512

Motion: Rep. Rice made a DO PASS motion, seconded by Rep. Aafedt.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Rice introduced proposed amendments (see attached standing committee report), motion seconded by Rep. Nelson. A vote was taken on the amendments and PASSED with Rep. Boharski voting No.

Recommendation and Vote: Rep. Rice moved DO PASS AS AMENDED, motion was seconded by Rep. Boharski. A Roll Call Vote was taken and the motion CARRIED with 10 voting aye and 8 voting nay.

DISPOSITION OF HOUSE BILL 313

Motion: A DO PASS motion was made by Rep. Gould, motion was seconded by Rep. Boharski.

Discussion: None.

Amendments, Discussion, and Votes: Rep. Mercer moved to amend page 2, line 3, strike "frivolous lawsuits", insert claims based on damages resulting from risks inherent in the sport (Exhibit 5). Motion was seconded by Rep. Brooke. A vote was taken on the amendment and PASSED unanimously.

Rep. Mercer moved to amend page 6, line 6. Strike "include but" and "not limited to", and page 7, lines 2-6. Strike "and" on line 3 through "duties" on line 6 (EXHIBIT 5). Motion was seconded by Rep. Knapp and CARRIED unanimously.

Rep. Mercer moved to amend page 7, line 1, following "operator;" insert and. Motion was seconded by Rep. Brooke. A vote was taken and CARRIED with Rep. Gould voting No.

Rep. Addy expressed concern as to the clarity of the language of the bill and moved to amend page 6, line 4 following "suffers", insert extent. Motion seconded by Rep. Strizich. This amendment was suggested by the Montana Trial Lawyers Association during the testimony. Rep. Addy stated that he feels this amendment clarifies the meaning of the statute.

Rep. Mercer asked Rep. Addy what the reason for the amendment was. What difference would it make if the language was or was not inserted into the bill? Rep. Addy stated that the difference is the clarity of the guidance that they give to the judges. If there is no difference in his mind (Rep. Mercer's) between the outcome of the bill with or without the language, then why not accept it?

Rep. Mercer stated that that is an insufficient argument for him. He wants to know what the difference of the language makes. If there is no difference, then he opposes putting it into the bill. Rep. Addy commented that he is simply saying what is buried in the language more clearly.

A Roll Call Vote was taken on the amendment proposed by Rep. Addy and CARRIED with 9 voting aye, and 8 voting nay.

Recommendation and Vote: Rep. Boharski moved DO PASS AS AMENDED, motion seconded by Rep. Knapp. A vote was taken and CARRIED with Rep. Addy voting No.

DISPOSITION OF HOUSE BILL 336

Motion: A DO PASS motion was made by Rep. Addy, motion was seconded by Rep. Darko.

Discussion: Rep. Hannah stated that this bill is a good idea, but does not feel that it will work. Practically speaking, what they are doing is penalizing people who are in fact trying to live their lives without being involved in too many controversies. They are not out there trying to discriminate against somebody in one fashion or another, but they have standards that they have laid down for their apartment or duplex, etc and this bill will not accomplish anything. What the proponents want to do is to provide housing for single parents and their children and this will not accomplish that particular goal.

Amendments, Discussion, and Votes: With the Committee's permission, Rep. Brown asked Anne MacIntyre from the Human Rights Division to explain the proposed amendments (EXHIBIT 6). Ms. MacIntyre also handed out for the Committee's review copies of the federal law language (EXHIBITS 7 and 8).

Rep. Darko moved the amendments proposed by Anne MacIntyre (EXHIBIT 6), motion seconded by Rep. Nelson.

Rep. Hannah stated that as he remembers correctly, the federal housing standards that they deal with in the real estate business and the rental business, there is an exemption for personally owned property for many other areas of discrimination. Particularly in relationship to race. Is that exemption included in the proposed provisions? Ms. MacIntyre replied that it is not. Continuing, Rep. Hannah

DAILY ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

ROLL CALL VOTE

JUDICIARY

COMMITTEE

DATE 2-9-89

BILL NO. 313

NUMBER 1

NAME	AYE	NAY
REP. KELLY ADDY, VICE-CHAIRMAN	X	
REP. OLE AAFEDT		X
REP. WILLIAM BOHARSKI		X
REP. VIVIAN BROOKE	X	
REP. FRITZ DAILY		
REP. PAULA DARKO	X	
REP. RALPH EUDAILY		X
REP. BUDD GOULD		X
REP. TOM HANNAH		X
REP. ROGER KNAPP		X
REP. MARY McDONOUGH	X	
REP. JOHN MERCER		X
REP. LINDA NELSON	X	
REP. JIM RICE		X
REP. JESSICA STICKNEY	X	
REP. BILL STRIZICH	X	
REP. DIANA WYATT	X	
REP. DAVE BROWN, CHAIRMAN	X	

TALLY

9 8

Secretary

Chairman

Motion: Rep. Addy's motion to amend Pg. 6, Line 4,
following "suffers", Insert "extent".

Amendments to House Bill No. 313
First Reading Copy

Requested by Rep. Mercer
For the Committee on the Judiciary

Prepared by John MacMaster
February 8, 1989

1. Page 2, line 3.

Strike: "frivolous lawsuits"

Insert: "claims based on damages resulting from risks inherent in the sport"

2. Page 6, line 6.

Strike: "include but"

Strike: "not limited to"

3. Page 7, line 1.

Following: "operator;"

Insert: "and"

4. Page 7, lines 2 through 6.

Strike: "and" on line 3 through "duties" on line 6

STANDING COMMITTEE REPORT

February 10, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that HOUSE BILL 313 (first reading copy -- white) do pass as amended.

Signed: _____
Dave Brown, Chairman

And, that such amendments read:

1. Title, lines 5 and 6.

Strike: "PROVIDE THAT THOUGH LIABLE FOR NEGLIGENCE,"

Insert: "STATE THE DUTIES OF"

2. Title, lines 6 AND 7.

Strike: "IS NOT LIABLE FOR AN INJURY CAUSED BY A RISK"

Insert: "AND A SKIER; TO PROVIDE THAT A SKIER ACCEPTS
RESPONSIBILITY FOR RISKS"

3. Page 2, line 3.

Strike: "frivolous lawsuits"

Insert: "claims based on damages resulting from risks inherent in
the sport"

4. Page 2, line 24.

Strike: "A"

Insert: "Consistent with the duty of reasonable care owed by a
ski area operator to a skier, a"

5. Page 5, line 15.

Strike: "who is skiing"

6. Page 5, line 25.

Strike: "the skier"

Insert: "he"

7. Page 6, line 4.

Following: "injury"

Insert: "or damage"

Strike: "that he suffers"

Insert: "to the extent"

Following: "that"

Insert: "the injury or damage"

8. Page 6, line 6.

Strike: "include but"

Strike: "not limited to"

9. Page 6, lines 15 through 19.

Strike: "forest growth" on line 15 through "skiing activity" on line 19

Insert: "skiing in an area not designated as a ski trail"

10. Page 6, lines 20 through 23.

Strike: "." at end of line 20 through "signs" on line 23

Insert: "or equipment"

11. Page 7, line 1.

Following: "operator;"

Insert: "and"

12. Page 7, lines 2 through 6.

Strike: ";" on line 2 through "duties" on line 6

HEARING ON HOUSE BILL 313

Presentation and Opening Statement by Sponsor:

Representative Ed Grady of Canyon Creek, District 47, opened the hearing. The purpose of the bill was to revise the skier responsibility law to address a supreme court decision. He presented a written statement to the committee. (Exhibit 10)

List of Testifying Proponents and What Group they Represent:

Pat Melby, Montana Skiers Association
George Willett, Showdown Ski Area
Terry Abelin, Bridger Bowl
Norman F. Kurtz, Big Mountain Ski Area
Tim Praether, Red Lodge Ski Area

List of Testifying Opponents and What Group They Represent:

Michael Sherwood, Montana Trial Lawyers Association

Testimony:Proponents:

The following persons testified in favor of the bill leaving testimony with the secretary:

Pat Melby (Exhibit 11) He said he originally was opposed to the bill but thought the amendments now made it acceptable. He called attention to amendments on p. 4, lines 8 through 11, on p. 4, line 25, on p. 7, line 15, on Sec. 3, on Sec. 4.

George Willett (Exhibit 12)
Terry Abelin (Exhibit 13)
Norman F. Kurtz (Exhibit 14)
Tim Praether (Exhibit 15)

Kevin Taylor told the committee that signs and warnings were placed wherever hidden risks might, yet still there are skiers who are injured. He urged support of the bill.

Opponents:

Michael Sherwood appeared in opposition to the bill (Exhibit 16). However, he said he was not opposed to the bill if it was accepted with the House Amendments.

Questions From Committee Members: Senator Crippen commented that he had noticed the signs telling of the degree of difficulty. He wondered if these signs are standardized at all ski areas. Pat Melby thought they were.

Senator Beck wondered if "injuries or damage" were synonymous. Pat Melby said injuries were physical injuries and damage could refer to wrongful death actions resulting in loss of consortium and other damages.

Closing by Sponsor: Senator Crippen closed the hearing for Representative Grady who had to leave early.

DISPOSITION OF HOUSE BILL 313

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Mazurek MOVED that House Bill 313 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 489

Discussion: Valencia Lane distributed and explained the amendments that had been requested by Senator Halligan. (Exhibit 17) She said she had left making a false bomb threat in the same statute that it was in -- disorderly conduct. She said that there was a new subsection (3) which was amendment #6 that provided penalties. She said it was a high misdemeanor taken directly from the third DUI statute. Senator Halligan requested that the penalties be the same as in that statute, she said.

Senator Mazurek questioned if every high misdemeanor should have a 30-day jail sentence. He asked if there was still discretion and Valencia answered yes. Senator Pinsoneault agreed.

Senator Crippen asked the committee to study #6 first.

Senator Mazurek asked if the penalty could be changed to say "up to \$1,000 or a "jail term of "up to 6 months" or both.

Amendments and Votes: Senator Mazurek MOVED that the committee adopt the amendments and change #6 to a \$1,000

ROLL CALLJUDICIARYCOMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 3-15-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN			
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL			

Each day attach to minutes.

DATE (3-15-89

COMMITTEE ON Senate Judiciary

2012

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Larry R. Dahl	Missoula MT	185	✓	
Larry M. Riedahl	Missoula, MT	185	✓	
Pat Melby	Mont. Ski Area Assoc	HB 313	✓	
GEO WILLIET	Showerman S. A. Assoc	HB 313	✓	
Tim Prather	RED LODGE MOUNTAIN	HB 313	✓	
Dorothy Poe	Kalispell MT	HB 185	✓	
Loy Allenbass	Kalispell mont.	HB 185	✓	
Dianna Corne	Kalispell mt	HB 185	✓	
Terry Abelin	Bridger Bowl / SKI'AR	HB 313	✓	
Steve J. J. J. J.	Helena	HB 185	✓	
Judy L. Erickson	Helena	HB 185	✓	
Faye Hedrich	Helena Mont.	HB 185	✓	
Robert Bauman	Helena MT	HB 185	✓	
Evelyn Stratiff	Helena	HB 185	✓	
Bill FLEINER	Montana Sheriff's & Peace Officers	HB 185	✓	
Christie Mason	MT council of Mental Health	HB 155	✓	
Jane Gordon	Helena MT			
Margaret Bess-Muller	Helena T-TRANSITIONAL House	HB 185	✓	
Kevin Taylor	Missoula MT	HB 313	✓	

opening statement

EXHIBIT NO. 10
DATE 3-15-85
BILL NO. HB313

HB 313

HB 313 IS FOR THE PURPOSE OF REMOVING PROVISIONS FROM THE SKIER RESPONSIBILITY ACT WHICH THE SUPREME COURT FOUND UNCONSTITUTIONAL IN THE CASE OF BREWER V. SKI LIFT IN SEPTEMBER, 1988.

THE BILL DEFINES THE DUTIES OF SKI AREAS AND SKIERS.

AND ALSO DEFINES RISKS INHERENT IN THE SPORT OF SKIING.

RISKS INHERENT IN THE SPORT OF SKIING ARE RISKS OVER WHICH A SKI AREA HAS NO CONTROL.

THE SKI AREA HAS NO DUTY TO PROTECT A SKIER FROM INJURY FROM AN INHERENT RISK.

A SKIER WHO KNOWS THE SPORT IS DANGEROUS AND HAS INHERENT RISKS, YET VOLUNTARILY PARTICIPATES IN THE SPORT, ACCEPTS THE LEGAL RESPONSIBILITY FOR INJURY FROM THE INHERENT RISKS.

A SKI AREA, UNDER THE BILL, WOULD STILL BE LIABLE FOR INJURY TO A SKIER RESULTING FROM THE NEGLIGENCE OF THE SKI AREA.

(THIS WAS THE PROBLEM IN BREWER - UNDER THE OLD LAW A SKI AREA WAS NOT EVEN LIABLE FOR ITS OWN NEGLIGENCE - AT LEAST THAT IS HOW THE COURT INTERPRETED IT.)

EG/vm

WITNESS STATEMENT

NAME Dat Melby ~~BUDGET~~ HB 313
ADDRESS P.O. Box 1144 Helena, MT 59624
WHOM DO YOU REPRESENT? Mont' Ski Area Ass'n
SUPPORT HB 313 OPPOSE _____ AMEND _____

COMMENTS: House Bill 313 defines the duties
of Ski areas and skiers. It also defines
inherent risks and provides that a skier
accepts the legal responsibility for injury
resulting from an inherent risk.

While the negligence of a skier and that of
a ski area would be compared, acceptance
of the legal responsibility for injuries resulting
from an inherent risk would not, because
there is no negligence of a ski area involved
in the causation of such an injury.

A ski area does not owe a duty
to a skier to protect the skier from
injury ~~from an inherent risk~~ resulting from
an inherent risk and a ski area is not
negligent if ~~there~~ an injury is the result
of an inherent risk.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

NAME GEO WILLIETT BUDGET _____
ADDRESS SHOWDOWN SKI AREA NEWMART MT
WHOM DO YOU REPRESENT? MONT SKI AREAS ASSOC
SUPPORT X OPPOSE _____ AMEND _____

COMMENTS: IT IS IMPERATIVE THAT
THE COMMITTEE MAINTAIN THE
SEPERATION BETWEEN SKIER CONDUCT
& THE SKIER'S ACCEPTANCE OF THE
INHERENT RISKS IN THE SPORT OF SKIING
SKIER'S CONDUCT IS JUDGED BY THE COMPARATIVE
NEGLIGENCE LAWS OF THE
STATE. THE ~~SKIER'S~~ INHERENT RISKS
ARE ~~ACCEPT~~ MUST BE ACCEPTED &
ARE ACCEPTED BY THE SKIER & CAN NOT
BE JUDGED BY THE COMPARATIVE NEGLIGENCE
OF THE STATE & THE SKIER MUST
ACCEPT ALL LEGAL RESPONSIBILITY
FOR INJURY & DAMAGE AS A RESULT
OF THE INHERENT RISKS IN THE
SPORT OF SKIING. COMPARATIVE NEG
LEGENCE LAW CAN NOT APPLY TO
THE INHERENT RISKS ACCEPTED BY
THE SKIER IF INJURY OR DAMAGE
RESULTS AS A RESULT OF THESE
RISKS.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



SENATE JUDICIARY
EXHIBIT NO. 13
DATE 3-15-89
BILL NO. HB 313

TESTIMONY FOR HB 313

Montana is celebrating its centennial year. We are an independent bunch of western folks and proud to be Montanans.

As such we accept responsibility for our actions and expect others to do the same. We have created a difficult financial situation with state funding, and we have to accept reality and do something about it.

A skier is participating in a sport that has inherent risks. Every athletic activity has some risk involved.

As a ski area operator, we have a duty to provide reasonable care for its customers. This is no different, more or less, than any other business need provide for its customers.

By approving this bill, we will better define both the customer's and the operator's risks for participating in the sport.

We are not asking to be relieved of responsibility but attempting in the only way we have available to us of protecting ourselves from claims that are in fact risks of the sport.

To fall down and injure yourself while skiing is an everyday event at all ski areas. If we have to defend ourselves in all cases, we will not be able to afford attorney's fees or insurance payments.

Please take this bill for its true value to us as Montanans and let common sense and responsibility continue to be a proud Montana tradition.

Thanks for your consideration.

Sincerely

Terry Abelin
General Manager

TA:so

WITNESS STATEMENT

NAME NORMAN F. KURTZ

BUDGET _____

ADDRESS THE BIG MOUNTAIN - P.O. BOX 1400 WHITEFISH MTWHOM DO YOU REPRESENT? THE SKI AREAS OF MONTANASUPPORT HB 313

OPPOSE _____

AMEND _____

COMMENTS: A SKIER SINCE 1943, I SUPPORT
THE CLARIFICATION OF THE SKIER
RESPONSIBILITY LAW OR ACT AS IT
POINTS OUT FAIRLY THE RESPONSIBILITIES
OF AREA OPERATORS AND THE
RESPONSIBILITY OF SKIERS TO
THEMSELVES AND EACH OTHER.

OTHER TESTIMONY IS ORAL AND
UNWRITTEN.

I URGE SUPPORT OF THIS
MEASURE.

Norman F. Kurtz

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Pim Praether

SENATE JUDICIARY
EXHIBIT NO. 15
DATE 3-15-89
BILL NO. HB 313

For Record - My NAME
FOR REASONS THAT HAVE ALREADY
BEEN STATED I Support HB 313

FURTHER ADD

THERE IS NO FREEDOM LIKE THE Sport
OF SKIING -

AN UNDERSTANDING by ^{SKIERS} ~~THE STATE~~ ^{RESPECTIVE} Ski Area
OPERATORS OF THEIR DUTIES
AND OF THE INHERANT RISKS
OF THE Sport will preserve
THIS FREEDOM -

I URGE Your Support

WITNESS STATEMENT

NAME Michael Sherwood

BUDGET _____

ADDRESS _____

WHOM DO YOU REPRESENT? _____

SUPPORT _____

OPPOSE HB 313 unless AMEND _____

COMMENTS: _____

amended adopted as
amended in House

This Bill was heard in house judiciary.
Amendments were submitted by proponents
and opponents. The committee adopted
amendments from both sides. Before
this bill was heard on the House
floor Mr. Melby asked whether I
would refrain from attempts at further
amendments or killing the bill, if
the proponents would likewise refrain
from further attempts to amend the bill.
I agreed

While I have risen as an opponent,
I have no objection to the passage
of this bill provided the house amendments
are adopted.

We feel that the compromise is an educated
and thoughtful one - one which will be acceptable
to this committee and the legislature as a

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

whole.

SENATE STANDING COMMITTEE REPORT

March 15, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 313 (third reading copy -- blue), respectfully report that HB 313 be concurred in.

Sponsor: Grady (Hazurek)

BE CONCURRED IN

Signed: B. D. Crippen
Bruce D. Crippen, Chairman

4/10/89
12:15 PM
P.M.